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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,485	07/01/2005	Kevin H. Schilling	006401.00400	3311

22908 7590 03/14/2005

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EXAMINER
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HAMLIN, DERRICK G

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/611,485

Applicant(s)

SCHILLING ET AL.

Examiner

Derrick G. Hamlin

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 24-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

Claims 1-6 and new claims 24-26 are currently pending.

The rejection of 1, 2 and 4 under 35 U.S.C. 102(b) as being anticipated by Kieke (US 5,911,276), is withdrawn in view of the applicant's amendment filed 12/30/04.

The rejection of claims 3 and 5-7 under 35 U.S.C. 103(a) as being unpatentable over Kieke (US 5,911,276), is withdrawn in view of the applicant's amendment filed 12/30/04.

Claims 7-23 have been cancelled.

### ***Response to Arguments***

Applicant's arguments filed 12/30/04 have been fully considered but they are not persuasive for the reasons that follow.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and new claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kieke (US 5,911,276), further in view of (US 4885387) or (US 3622463).

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The applicant argues that the amended claims require that the composition contain a corn hemicellulose and not a kraft hemicellulose. It is well known in the art that these materials are interchangeable ~~in the absence of superior or unexpected results~~, as demonstrated in US 4885387 or US 3622463. Therefore, the use of a corn hemicellulose would have been obvious in view of the references teaching a kraft hemicellulose.

The applicant argues that the co-solvent of the reference would not act as a cross-linker of dependent claims 3, 5, 25 and 26. The applicant does agree that cross-linking agents are in the preview of the disclosure of the reference. There would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest co-solvent such as aldehydes and ketones and the specification of the instant application discloses that acetone and formaldehyde are preferred cross-linking agents. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the instant compositions containing water, lignin, inorganic salts, hemicellulose and aldehydes and ketones as cross-linking agents.

In view of the forgoing, the above claims have failed to be patently distinguishable over prior art.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571) 272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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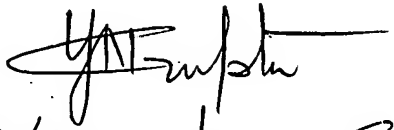
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

3/7/05



  
Yogendra Gupta  
SPE, AU1751